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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,108	01/16/2004	Hisayuki Sakaguchi	0666.2150000/TGD	4999
26111	7590	11/17/2004	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			MOULIS, THOMAS N	
			ART UNIT	PAPER NUMBER

3747

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/758,108

**Applicant(s)**

SAKAGUCHI ET AL.

**Examiner**

Thomas N Moulis

**Art Unit**

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) (2 sheets)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/16/04.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Claim 10 fails to further limit claim 4, on which it depends.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ritter et al ('510). The reference discloses a fuel injection pump governor having a governor lever (22) connected to a control rod (24) of the injection pump in a known manner. The reference also discloses a limiter device (31) for controlling the turning of the governor lever within a fixed range so as to control the injection rate to the engine in accordance with temperature. As the temperature increases, the fuel amount to the engine is increased. See Figures 1-4 and columns 3-7. It is well known to increase fuel to engines during cold starting and decrease fuel as the engine becomes warm

using overriding stop devices within fuel injection pump governors. Note the position of the stopper member (33) is changed according to the dilation of a heat sensitive expansion member (41).

Claims 1-3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Konrath et al ('025). The reference discloses a fuel injection pump governor having a governor lever (30) connected to a control part (16) of the injection pump in a known manner. The reference also discloses a limiter device (46) for controlling the turning of the governor lever within a fixed range so as to control the injection rate to the engine in accordance with temperature. As the temperature increases, the fuel amount to the engine is increased. See Figures 1 and columns 1-4. It is well known to increase fuel to engines during cold starting and decrease fuel as the engine becomes warm using overriding stop devices within fuel injection pump governors. The stopper device (50) has a location which is changed according to dilation of a heat sensitive expansion member (48).

Claims 1-4, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishiwata et al ('132). The reference discloses a fuel injection pump governor having a governor lever connected to a control rod of the injection pump in a known manner. The reference also discloses a limiter device (151) for controlling the turning of the governor lever within a fixed range so as to control the injection rate to the engine in

accordance with temperature. As the temperature increases, the fuel amount to the engine is increased. See Figures 10. It is well known to increase fuel to engines during cold starting and decrease fuel as the engine becomes warm using overriding stop devices within fuel injection pump governors. Note element (151) is a heat sensitive expansion member using wax. See column 10, lines 40+.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter et al ('510) in view of Ito ('499). Ritter discloses a fuel injection pump governor having a temperature dependent correction device for overriding the governor during cold engine conditions as discussed above. Ito teaches the use of a wax expansion member (8), attached to the engine within a casing and slide restriction parts to control fuel delivery to an engine in accordance with engine temperature. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the fuel control device of Ritter et al by modifying the expandable bimetal spring element (41) with expandable wax element as taught by Ito to control fuel delivery to the

engine in accordance with engine temperature since both devices are well known and since Ito teaches control controlling fuel delivery with the expandable wax element (8).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the various fuel injection pump governors having temperature dependent override members to control fuel delivery to an engine in accordance with temperature which use an expandable element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas N Moulis whose telephone number is 703 308-2618. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on 703 308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, consisting of a large, stylized 'T' followed by a series of loops and a final vertical stroke.

Thomas N. Moulis  
Primary Examiner